

CLERK OF DISTRICT COURT
NORTHERN DIST. OF TX
FORT WORTH DIVISION
FILED**ORIGINAL**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

2020 JAN 29 AM 10:27

DEPUTY CLERK

ERIC C. DARDEN, as Administrator of the
Estate of Jermaine Darden,
Plaintiff,

v.

THE CITY OF FORT WORTH, TEXAS, et al.,
Defendants.§
§
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§
§
§

CIVIL ACTION NO. 4:15-CV-221-A

**DEFENDANTS, W.F. SNOW'S, EMERGENCY
MOTION TO EXCUSE WITNESS FROM DOCKET CALL
AND BRIEF IN SUPPORT THEREOF**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant's Taser device expert witness, Mark Kroll, Ph.D., is called to appear in a federal trial in Pennsylvania that is set to begin on Monday, February 10, 2020, the same day as the scheduled commencement of trial of this case. Sean D. Williams v. City of Lancaster, et al., Civil Action No. 18-2773, in the United States District Court for the Eastern District of Pennsylvania.

The Pennsylvania case was set for trial on that date (February 10, 2020) by court order, dated February 15, 2019, see Exhibit A, hereto, well prior to this Court's grant of plaintiff's most recent motion for continuance and resetting of this trial to the same February 10 date. See Order, dated November 7, 2019, ECF No. 237. Dr. Kroll and defendants had hoped that the Pennsylvania case would be resolved based on pending motions or through settlement, but the Court recently denied in part a pending summary judgment motion, and the parties' settlement efforts in the case were not successful. It now appears all but certain that the Pennsylvania case will indeed go to trial as scheduled.

The parties in the Pennsylvania case have reached an agreement, with Court approval, to call Dr. Kroll (a defense witness) in that case out of order and by no later than Tuesday, February 11, 2020, and Dr. Kroll will thus be able to arrive in Fort Worth Tuesday night in time to testify in this trial on the morning of Wednesday, February 12, 2020.

Defendant Snow, therefore, respectfully asks that Dr. Kroll be excused from the Court's requirement that he appear at the Monday morning docket call and that if he be allowed to appear as late as Wednesday morning. Even with such an accommodation, Defendants will be prejudiced by not having access to such an important expert witness throughout the trial, but it in no way will prejudice plaintiff.

WHEREFORE, PREMISES CONSIDERED, Defendant W.F. Snow respectfully prays that the Court grant this motion, excuse Dr. Kroll from appearing at the Monday docket call, and for such other and further relief to which he may be entitled.

Respectfully submitted,

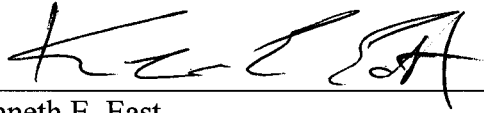


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ATTORNEY FOR DEFENDANT
W.F. SNOW

CERTIFICATE OF CONFERENCE

I hereby certify that on January 29, 2020, I attempted to confer with plaintiff's counsel via email and telephone but was forced to leave messages which have not been returned stating agreement or not as of this filing, and defendant, therefore, assumes that this motion is opposed.

A handwritten signature in black ink, appearing to read 'Ken E. East', written over a horizontal line.

Kenneth E. East

CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2020, I served a copy of this document on all parties or their counsel of record.

A handwritten signature in black ink, appearing to read 'Ken E. East', written over a horizontal line.

Kenneth E. East

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SEAN D. WILLIAMS,

Plaintiff

v.

CITY OF LANCASTER d/b/a
LANCASTER POLICE DEPARTMENT; and
PHILLIP BERNOT, Individually and in His Official
Capacity as an Officer for the
LANCASTER POLICE DEPARTMENT

Defendants

CIVIL ACTION NO.
18-2773

AMENDED TRIAL ATTACHMENT ORDER

AND NOW, this 14th day of February, 2019, IT IS ORDERED as follows:

1. Jury selection shall take place on *Monday, February 10, 2020*, at 9:30 o'clock
a.m. at the James A. Byrne United States Courthouse, 601 Market Street, Philadelphia,
Pennsylvania.¹

2. Trial of the within case shall continue on *Tuesday, February 11, 2020*, in
Courtroom A, Edward N. Cahn United States Courthouse, 504 West Hamilton Street, Allentown,
Pennsylvania. This Order shall serve as a formal attachment for trial.

3. In all other respects not inconsistent herewith, all of the terms and conditions
of the Rule 16 Scheduling Order of the undersigned dated January 18, 2019 (Docket No. 24)
shall remain in full force and effect.

BY THE COURT:

/s/ Henry S. Perkin
HENRY S. PERKIN
United States Magistrate Judge

¹

Time permitting, trial of the within case shall commence immediately following jury selection.

EXHIBIT A